

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

| | | |
|--|---|-------------------------------|
| Robert Louis Garrett, Jr., |) | Case No. 0:19-cv-1859-CMC-PJG |
| |) | |
| Plaintiff, |) | |
| v. |) | ORDER |
| |) | |
| Captain Palmer; Kevin Borem; Unit |) | |
| Manager M. Toth; Unknown Medical Staff |) | |
| Who Okayed Other Defendants to Spray |) | |
| Plaintiff with Chemical Munitions; |) | |
| Unknown Staff that was on the Use of |) | |
| Force Cell Extraction Team on 20 June |) | |
| 2019; |) | |
| Unknown Security Staff who Authorized the |) | |
| Defendants to do a Use of Force on Plaintiff |) | |
| For No Penological Reason; Mr. Phillips, |) | |
| Mental Health Counselor, |) | |
| |) | |
| Defendants. |) | |
| |) | |

This matter is before the court on Plaintiff's Motion for Temporary Restraining Order (ECF No. 96) and Motion for Extension of time to file Objections to the Report and Recommendation of the Magistrate Judge (ECF No. 97). Plaintiff alleges his hand injury prevents him from handwriting documents without pain, and requests a court order for use of the ADA typewriter at his facility.¹

On January 6, 2021, the Magistrate Judge entered a Report recommending this action be dismissed for failure to prosecute and that Defendants' Motion for Summary Judgment be terminated as moot. ECF No. 87. Objections to the Report were due January 20, 2021, plus three

¹ The court notes Plaintiff has filed multiple lawsuits and many documents in each lawsuit, all handwritten.

mailing days. *Id.* No objections were received by the deadline. In an abundance of caution, the court continued to wait almost two weeks beyond the deadline for objections before ruling on the Report. On February 4, 2021, the court adopted the Report and dismissed this case without prejudice for failure to prosecute. ECF Nos. 91, 92.²

As Plaintiff's case has been dismissed without prejudice and closed, there is no extension to be granted or reason to consider the Motion for Temporary Restraining Order.³ Plaintiff was granted two extensions of time to respond to Defendants' Motion for Summary Judgment, but failed to timely do so despite the court's orders, and extra days past the deadlines were also given before both the Report and the Order dismissing the case were entered. After these delays without further filings in response to the Motion for Summary Judgment, the case was dismissed for failure to prosecute, as Plaintiff failed to follow the court's orders. Accordingly, Plaintiff's motions for extension of time and for temporary restraining order are dismissed as moot.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
February 22, 2021

² While the Order and Judgment were mailed to Plaintiff on February 5, 2021, it is possible Plaintiff sent the instant motions prior to receiving the court's dismissal.

³ The court notes Plaintiff filed identical motions in two other cases still pending, and both motions are being considered in those cases. See Civil Action Nos. 0:18-cv-1418; 0:18-cv-1417.